



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1768/P3
PJH:jld/wlj/nwn:md

RMR
py

DOA:.....Wavrunek, BB0520 - Sentence Adjustment for Class C to I felonies
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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AN ACT ...; relating to: the budget. ✓

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, a person who is imprisoned for a felony he or she committed prior to December 31, 1999, may petition the Parole Commission in DOC to be released to parole after the person has served 25 percent of his or her sentence. The Parole Commission determines whether, and under what conditions, the person should be released to parole. A person who committed a felony on or after December 31, 1999, is sentenced to a bifurcated sentence, with the first portion of the sentence served in confinement and the second portion served under extended supervision in the community.

A person who is serving a bifurcated sentence is not eligible for parole and, with few exceptions, must serve the entire confinement portion of his or her sentence before being released to extended supervision. A person's confinement portion may be extended if he or she violates a prison regulation. If a person's confinement portion is extended for such a violation, current law requires his or her extended supervision portion to be reduced so that the total length of the person's sentence remains unchanged.

Current law allows a person who is sentenced to a bifurcated sentence for a Class C to Class I felony to petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served

85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement portion of the sentence. If a person's confinement portion is reduced by the sentencing court, current law requires his or her extended supervision portion to be extended so that the total length of the person's sentence remains unchanged.

Under current law, a person who is released to extended supervision must serve his or her entire sentence before extended supervision terminates.

Under this bill, a person who commits a nonviolent Class F to Class I felony, except for certain sex offenders, may earn "positive adjustment time" in the amount of one day for every two days he or she is incarcerated without violating a prison rule or regulation. The bill requires DOC to release the person to extended supervision when he or she serves his entire incarceration period, minus positive adjustment time earned. Under the bill, if a person's incarceration period is reduced by positive adjustment time, his or her period of extended supervision is increased so that the length of the sentence does not change.

Under this bill, a person who commits a violent Class F to Class I felony, except for certain sex offenders, may earn positive adjustment time in the amount of one day for every three days he or she is incarcerated without violating a prison rule or regulation, and a person who commits a Class C to Class E felony, except for certain sex offenders, may earn positive adjustment time in the amount of one day for every 5.7 days he or she is incarcerated without violating a prison rule or regulation.

The bill renames the Parole Commission the Earned Release Review Commission (ERRC) and, in addition to the Parole Commission's current duties, the ERRC may consider a petition for release from a person who commits a violent Class F to Class I felony or a Class C to Class E felony after the person serves his entire incarceration period, minus positive adjustment time earned. The bill eliminates the authority of the trial court to adjust sentences. Under the bill, if the ERRC reduces the term of confinement portion of a person's sentence because the person has earned positive adjustment time, the person's term of extended supervision is increased so that the length of the sentence does not change.

Under the bill, a person who is released to extended supervision for a nonviolent Class F to Class I felony may earn "good time" toward discharge from extended supervision in the amount of one day for every day he or she serves on extended supervision without violating a condition of extended supervision. The bill requires DOC to discharge from extended supervision a person who serves his or her entire extended supervision time, minus good time earned.

Under the bill, a person who is released to extended supervision for a violent Class F to Class I felony may earn good time toward discharge from extended supervise in the amount of one day for every three days he or she serves on extended supervision without violating a condition of extended supervision. A person who is released to extended supervision for a Class C to Class E felony may earn good time toward discharge from extended supervision in the amount of one day for every 5.7 he or she serves on extended supervision without violating a condition of extended supervision. Under the bill, the ERRC may discharge from extended supervision a person convicted of a violent Class F to Class I felony or a person convicted of a Class

C to Class E felony after he or she serves his entire period of extended supervision, minus good time earned.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.01 (2) of the statutes is amended to read:

2 15.01 (2) "Commission" means a 3-member governing body in charge of a
3 department or independent agency or of a division or other subunit within a
4 department, except for the Wisconsin waterways commission which shall consist of
5 5 members and the ~~parole~~ earned release review commission which shall consist of
6 8 members. A Wisconsin group created for participation in a continuing interstate
7 body, or the interstate body itself, shall be known as a "commission", but is not a
8 commission for purposes of s. 15.06. The ~~parole~~ earned release review commission
9 created under s. 15.145 (1) shall be known as a "commission", but is not a commission
10 for purposes of s. 15.06.

11 **SECTION 2.** 15.06 (6) of the statutes is amended to read:

12 15.06 (6) **QUORUM.** A majority of the membership of a commission constitutes
13 a quorum to do business, except that vacancies shall not prevent a commission from
14 doing business. This subsection does not apply to the ~~parole~~ earned release review
15 commission.

16 **SECTION 3.** 15.145 (1) of the statutes is amended to read:

17 15.145 (1) ~~PAROLE~~ EARNED RELEASE REVIEW COMMISSION. There is created in the
18 department of corrections ~~a parole~~ an earned release review commission consisting
19 of 8 members. Members shall have knowledge of or experience in corrections or
20 criminal justice. The members shall include a chairperson who is nominated by the

1 governor, and with the advice and consent of the senate appointed, for a 2-year term
2 expiring March 1 of the odd-numbered years, subject to removal under s. 17.07 (3m),
3 and the remaining members in the classified service appointed by the chairperson.

4 **SECTION 4.** 17.07 (3m) of the statutes is amended to read:

5 17.07 (3m) Notwithstanding sub. (3), the parole earned release review
6 commission chairperson may be removed by the governor, at pleasure.

7 **SECTION 5.** 20.410 (2) (title) of the statutes is amended to read:

8 20.410 (2) (title) ~~PAROLE~~ EARNED RELEASE REVIEW COMMISSION.

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

9 **SECTION 6.** 20.410 (2) (a) of the statutes is amended to read:

10 20.410 (2) (a) *General program operations.* The amounts in the schedule for
11 the general program operations of the parole earned release review commission.

12 **SECTION 7.** 20.923 (4) (b) 6. of the statutes is amended to read:

13 20.923 (4) (b) 6. ~~Parole~~ Earned release review commission: chairperson.

14 **SECTION 8.** 230.08 (2) (pd) of the statutes is amended to read:

15 230.08 (2) (pd) The chairperson of the parole earned release review
16 commission.

17 **SECTION 9.** 301.03 (3) of the statutes is amended to read:

18 301.03 (3) Administer parole, extended supervision and probation matters,
19 except that the decision to grant or deny parole or to grant extended supervision
20 under s. 304.06 (1) to inmates shall be made by the parole earned release review
21 commission and the decision to revoke probation, extended supervision or parole in
22 cases in which there is no waiver of the right to a hearing shall be made by the
23 division of hearings and appeals in the department of administration. The secretary

1 may grant special action parole releases under s. 304.02. The department may
2 discharge inmates from extended supervision under s. 973.01 (4m) and the earned
3 release review commission may discharge inmates from extended supervision under
4 s. 973.01 (4r). The department shall promulgate rules establishing a drug testing
5 program for probationers, parolees and persons placed on extended supervision. The
6 rules shall provide for assessment of fees upon probationers, parolees and persons
7 placed on extended supervision to partially offset the costs of the program.

8 **SECTION 10.** 301.048 (2) (am) 3. of the statutes is amended to read:

9 301.048 (2) (am) 3. The parole earned release review commission grants him
10 or her parole under s. 304.06 and requires his or her participation in the program as
11 a condition of parole under s. 304.06 (1x).

12 **SECTION 11.** 301.21 (1m) (c) of the statutes is amended to read:

13 301.21 (1m) (c) Any hearing to consider parole or whether to grant extended
14 supervision, if the inmate is sentenced under s. 973.01 to which an inmate confined
15 under this contract may be entitled by the laws of Wisconsin will be conducted by the
16 Wisconsin parole earned release review commission under rules of the department.

17 **SECTION 12.** 301.21 (2m) (c) of the statutes is amended to read:

18 301.21 (2m) (c) Any hearing to consider parole or whether to grant extended
19 supervision, if the prisoner is sentenced under s. 973.01 to which a prisoner confined
20 under a contract under this subsection may be entitled by the laws of Wisconsin shall
21 be conducted by the Wisconsin parole earned release review commission under rules
22 of the department.

23 **SECTION 13.** 302.045 (3) of the statutes is amended to read:

24 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
25 determines that an inmate serving a sentence other than one imposed under s.

1 973.01 has successfully completed the challenge incarceration program, the parole
2 earned release review commission shall parole the inmate for that sentence under
3 s. 304.06, regardless of the time the inmate has served. When the parole earned
4 release review commission grants parole under this subsection, it must require the
5 parolee to participate in an intensive supervision program for drug abusers as a
6 condition of parole.

7 **SECTION 14.** 302.05 (3) (b) of the statutes is amended to read:

8 302.05 (3) (b) Except as provided in par. (d), if the department determines that
9 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
10 successfully completed a treatment program described in sub. (1), the parole earned
11 release review commission shall parole the inmate for that sentence under s. 304.06,
12 regardless of the time the inmate has served. If the parole earned release review
13 commission grants parole under this paragraph, it shall require the parolee to
14 participate in an intensive supervision program for drug abusers as a condition of
15 parole.

16 **SECTION 15.** 302.11 (1g) (b) (intro.) of the statutes is amended to read:

17 302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive
18 mandatory release date reaches the presumptive mandatory release date specified
19 under par. (am), the parole earned release review commission shall proceed under
20 s. 304.06 (1) to consider whether to deny presumptive mandatory release to the
21 inmate. If the parole earned release review commission does not deny presumptive
22 mandatory release, the inmate shall be released on parole. The parole earned release
23 review commission may deny presumptive mandatory release to an inmate only on
24 one or more of the following grounds:

25 **SECTION 16.** 302.11 (1g) (b) 2. of the statutes is amended to read:

1 302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or
2 treatment that the social service and clinical staff of the institution determines is
3 necessary for the inmate, including pharmacological treatment using an
4 antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious
5 child sex offender as defined in s. 304.06 (1q) (a). The parole earned release review
6 commission may not deny presumptive mandatory release to an inmate because of
7 the inmate's refusal to participate in a rehabilitation program under s. 301.047.

8 **SECTION 17.** 302.11 (1g) (c) of the statutes is amended to read:

9 302.11 (1g) (c) If the parole earned release review commission denies
10 presumptive mandatory release to an inmate under par. (b), the parole earned
11 release review commission shall schedule regular reviews of the inmate's case to
12 consider whether to parole the inmate under s. 304.06 (1).

13 **SECTION 18.** 302.11 (1g) (d) of the statutes is amended to read:

14 302.11 (1g) (d) An inmate may seek review of a decision by the parole earned
15 release review commission relating to the denial of presumptive mandatory release
16 only by the common law writ of certiorari.

17 **SECTION 19.** 302.11 (1m) of the statutes is amended to read:

18 302.11 (1m) An inmate serving a life term is not entitled to mandatory release.
19 Except as provided in ss. 939.62 (2m) (c) and 973.014, the parole earned release
20 review commission may parole the inmate as specified in s. 304.06 (1).

21 **SECTION 20.** 302.11 (7) (c) of the statutes is amended to read:

22 302.11 (7) (c) The parole earned release review commission may subsequently
23 parole, under s. 304.06 (1), and the department may subsequently parole, under s.
24 304.02, a parolee who is returned to prison for violation of a condition of parole.

25 **SECTION 21.** 302.113 (1) of the statutes is amended to read:

1 302.113 (1) An inmate is subject to this section if he or she was convicted of a
2 Class B felony or a Class F to Class I felony that is not a violent offense, as defined
3 in s. 301.048 (2) (bm) 1. and is serving a bifurcated sentence imposed under s. 973.01.
4 An inmate convicted of a Class C to Class E felony or a Class F to Class I felony that
5 is a violent offense, as defined in s. 301.048 (2) (bm) 1. may be released to extended
6 supervision only under s. 304.06.

7 **SECTION 22.** 302.113 (2) of the statutes is renumbered 302.113 (2) (a) and
8 amended to read:

9 302.113 (2) (a) Except as provided in par. (b) and subs. (3) and (9), an inmate
10 subject to this section is entitled to release to extended supervision after he or she
11 has served the term of confinement in prison portion of the sentence imposed under
12 s. 973.01, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b)
13 1., or 302.05 (3) (c) 2. a., ~~or 973.195 (1r)~~, if applicable.

14 **SECTION 23.** 302.113 (2) (b) of the statutes is created to read:

15 302.113 (2) (b) An inmate sentenced under s. 973.01 for a Class F to Class I
16 felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1. may earn one
17 day of positive adjustment time for every 2 days served that he or she does not violate
18 any regulation of the prison or does not refuse or neglect to perform required or
19 assigned duties. An inmate convicted of a Class F to Class I felony that is not a violent
20 offense, as defined in s. 301.048 (2) (bm) 1. shall be released to extended supervision
21 when he or she has served the term of confinement in prison portion of his or her
22 bifurcated sentence, as modified by the sentencing court under sub. (9g) or s. 302.045
23 (3m) (b) 1. or 302.05 (3) (c) 2. a., if applicable, less positive adjustment time he or she
24 has earned. This paragraph does not apply to a person who is the subject of a bulletin
25 issued under s. 301.46 (2m).

1 **SECTION 24.** 302.113 (3) (d) of the statutes is amended to read:

2 302.113 (3) (d) If the term of confinement in prison portion of a bifurcated
3 sentence for a Class B felony is increased under this subsection, the term of extended
4 supervision is reduced so that the total length of the bifurcated sentence does not
5 change.

6 **SECTION 25.** 302.113 (3) (e) of the statutes is created to read:

7 302.113 (3) (e) If an inmate is released to extended supervision under sub. (2)
8 (b) after he or she has served less than his or her entire confinement in prison portion
9 of the sentence imposed under s. 973.01, the term of extended supervision is
10 increased so that the total length of the bifurcated sentence does not change.

11 **SECTION 26.** 302.113 (7) of the statutes is amended to read:

12 302.113 (7) Any inmate released to extended supervision under this section is
13 subject to all conditions and rules of extended supervision until the expiration of the
14 term of extended supervision portion of the bifurcated sentence or until the
15 department discharges the inmate under s. 973.01 (4m), whichever is appropriate.
16 The department may set conditions of extended supervision in addition to any
17 conditions of extended supervision required under s. 302.116, if applicable, or set by
18 the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do
19 not conflict with the court's conditions.

20 **SECTION 27.** 302.113 (9) (c) of the statutes is amended to read:

21 302.113 (9) (c) A person who is subsequently released to extended supervision
22 after service of the period of time specified by the court under par. (am) is subject to
23 all conditions and rules under subs. (7) and, if applicable, (7m) until the expiration
24 of the remaining extended supervision portion of the bifurcated sentence or until the
25 department discharges the person under s. 973.01 (4m), whichever is appropriate.

1 The remaining extended supervision portion of the bifurcated sentence is the total
2 length of the bifurcated sentence, less the time served by the person in confinement
3 under the bifurcated sentence before release to extended supervision under sub. (2)
4 and less all time served in confinement for previous revocations of extended
5 supervision under the bifurcated sentence.

6 **SECTION 28.** 302.114 (9) (c) of the statutes is amended to read:

7 302.114 (9) (c) A person who is subsequently released to extended supervision
8 under par. (bm) is subject to all conditions and rules under sub. (8) until the
9 expiration of the sentence or until the department discharges the person under s.
10 973.01 (4m), whichever is appropriate.

11 **SECTION 29.** 304.01 (title) of the statutes is amended to read:

12 **304.01 (title) Parole Earned release review commission and**
13 **commission chairperson; general duties.**

14 **SECTION 30.** 304.01 (1) of the statutes is amended to read:

15 304.01 (1) The chairperson of the parole earned release review commission
16 shall administer and supervise the commission and its activities and shall be the
17 final ~~parole-granting~~ authority for granting parole or release to extended
18 supervision, except as provided in s. 304.02.

19 **SECTION 31.** 304.01 (2) (intro.) of the statutes is amended to read:

20 304.01 (2) (intro.) The parole earned release review commission shall conduct
21 regularly scheduled interviews to consider the parole or release to extended
22 supervision of eligible inmates of the adult correctional institutions under the
23 control of the department of corrections, eligible inmates transferred under ch. 51
24 and under the control of the department of health services and eligible inmates in

1 any county house of correction. The department of corrections shall provide all of the
2 following to the parole earned release review commission:

3 **SECTION 32.** 304.01 (2) (b) of the statutes is amended to read:

4 304.01 (2) (b) Scheduling assistance for parole interviews for prisoners who
5 have applied for parole or release to extended supervision at the correctional
6 institutions.

7 **SECTION 33.** 304.01 (2) (c) of the statutes is amended to read:

8 304.01 (2) (c) Clerical support related to the parole interviews for prisoners who
9 have applied for parole or release to extended supervision.

10 **SECTION 34.** 304.01 (2) (d) of the statutes is amended to read:

11 304.01 (2) (d) Appropriate physical space at the correctional institutions to
12 conduct the parole interviews for prisoners who have applied for parole or release to
13 extended supervision.

14 **SECTION 35.** 304.06 (title) of the statutes is amended to read:

15 **304.06 (title) Paroles Release to parole or extended supervision from**
16 **state prisons and house of correction.**

17 **SECTION 36.** 304.06 (1) (b) of the statutes is amended to read:

18 304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s.
19 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole earned release review
20 commission may parole an inmate of the Wisconsin state prisons or any felon or any
21 person serving at least one year or more in a county house of correction or a county
22 reforestation camp organized under s. 303.07, when he or she has served 25% of the
23 sentence imposed for the offense, or 6 months, whichever is greater. Except as
24 provided in s. 939.62 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the parole earned
25 release review commission may parole an inmate serving a life term when he or she

1 has served 20 years, as modified by the formula under s. 302.11 (1) and subject to
2 extension under s. 302.11 (1q) and (2), if applicable. The person serving the life term
3 shall be given credit for time served prior to sentencing under s. 973.155, including
4 good time under s. 973.155 (4). The secretary may grant special action parole
5 releases under s. 304.02. The department or the parole earned release review
6 commission shall not provide any convicted offender or other person sentenced to the
7 department's custody any parole eligibility or evaluation for parole or release to
8 extended supervision until the person has been confined at least 60 days following
9 sentencing.

10 **SECTION 37.** 304.06 (1) (bg) of the statutes is created to read:

11 304.06 (1) (bg) 1. A person sentenced under s. 973.01 for a Class F to Class I
12 felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1. may earn one day
13 of positive adjustment time for every 3 days served that he or she does not violate any
14 regulation of the prison or does not refuse or neglect to perform required or assigned
15 duties. An inmate convicted of a Class F to Class I felony that is a violent offense,
16 as defined in s. 301.048 (2) (bm) 1. may petition the earned release review
17 commission for release to extended supervision when he or she has served the term
18 of confinement in prison portion of his or her bifurcated sentence, as modified by the
19 sentencing court under s. 302.045 (3m) (b) 1., 302.05 (3) (c) 2. a., or 302.113 (9g), if
20 applicable, less positive adjustment time he or she has earned. This subdivision does
21 not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

22 2. A person sentenced under s. 973.01 for a Class C to Class E felony may earn
23 one day of positive adjustment time for every 5.7 days served that he or she does not
24 violate any regulation of the prison or does not refuse or neglect to perform required
25 or assigned duties. An inmate convicted of a Class C to Class E felony that is a violent

1 offense, as defined in s. 301.048 (2) (bm) 1. may petition the earned release review
2 commission for release to extended supervision when he or she has served the term
3 of confinement in prison portion of his or her bifurcated sentence, as modified by the
4 sentencing court under s. 302.045 (3m) (b) 1., 302.05 (3) (c) 2. a., or 302.113 (9g), if
5 applicable, less positive adjustment time he or she has earned. This subdivision does
6 not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

7 **SECTION 38.** 304.06 (1) (bn) of the statutes is created to read:

8 304.06 (1) (bn) The earned release review commission may consider any of the
9 following as a ground for a petition under par. (bg) for release to extended supervision
10 by a person who is sentenced under s. 973.01 for a Class C to Class E felony or for
11 a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm)
12 1.:

13 1. The inmate's conduct, efforts at and progress in rehabilitation, or
14 participation and progress in education, treatment, or other correctional programs
15 since he or she was sentenced.

16 2. The inmate is subject to a sentence of confinement in another state or the
17 inmate is in the United States illegally and may be deported.

18 3. Sentence adjustment is otherwise in the interests of justice.

19 **SECTION 39.** 304.06 (1) (br) of the statutes is created to read:

20 304.06 (1) (br) The earned release review commission may reduce the term of
21 confinement of a person who is sentenced under s. 973.01 for a Class C to Class E
22 felony or for a Class F to Class I felony that is a violent offense, as defined in s.
23 301.048 (2) (bm) 1., only as follows:

24 1. If the inmate is serving the term of confinement in prison portion of the
25 sentence, a reduction in the term of confinement in prison by the amount of time

1 remaining in the term of confinement in prison portion of the sentence, less up to 30
2 days, and a corresponding increase in the term of extended supervision.

3 2. If the inmate is confined in prison upon revocation of extended supervision,
4 a reduction in the amount of time remaining in the period of confinement in prison
5 imposed upon revocation, less up to 30 days, and a corresponding increase in the term
6 of extended supervision.

7 **SECTION 40.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

8 304.06 (1) (c) (intro.) If an inmate applies for parole or release to extended
9 supervision under this subsection, the parole earned release review commission
10 shall make a reasonable attempt to notify the following, if they can be found, in
11 accordance with par. (d):

12 **SECTION 41.** 304.06 (1) (d) 1. of the statutes is amended to read:

13 304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons
14 under par. (c) 1. to 3. of the manner in which they may provide written statements
15 under this subsection, shall inform persons under par. (c) 3. of the manner in which
16 they may attend interviews or hearings and make statements under par. (eg) and
17 shall inform persons under par. (c) 3. who are victims, or family members of victims,
18 of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~, (2), or (3), 948.02 (1)
19 or (2), 948.025, 948.06 or 948.07 of the manner in which they may have direct input
20 in the parole decision-making process under par. (em) [✓] for parole or release to
21 extended supervision. The parole earned release review commission shall provide
22 notice under this paragraph for an inmate's first application for parole or release to
23 extended supervision and, upon request, for subsequent applications for parole or
24 release to extended supervision. ✓

25 **SECTION 42.** 304.06 (1) (e) of the statutes is amended to read:

Insert
14.24 ✓

1 304.06 (1) (e) The parole earned release review commission shall permit any
2 office or person under par. (c) 1. to 3. to provide written statements. The parole
3 earned release review commission shall give consideration to any written statements
4 provided by any such office or person and received on or before the date specified in
5 the notice. This paragraph does not limit the authority of the parole earned release
6 review commission to consider other statements or information that it receives in a
7 timely fashion.

8 **SECTION 43.** 304.06 (1) (eg) of the statutes is amended to read:

9 304.06 (1) (eg) The parole earned release review commission shall permit any
10 person under par. (c) 3. to attend any interview or hearing on the parole application
11 for parole or release to extended supervision of an applicable inmate and to make a
12 statement at that interview or hearing.

13 **SECTION 44.** 304.06 (1) (em) of the statutes is amended to read:

14 304.06 (1) (em) The parole earned release review commission shall promulgate
15 rules that provide a procedure to allow any person who is a victim, or a family
16 member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~,
17 (2), or (3), 948.02 (1) or (2), 948.025, 948.06 or 948.07 to have direct input in the parole
18 decision-making process for parole or release to extended supervision.

19 **SECTION 45.** 304.06 (1) (f) of the statutes is amended to read:

20 304.06 (1) (f) The parole earned release review commission shall design and
21 prepare cards for persons specified in par. (c) 3. to send to the commission. The cards
22 shall have space for these persons to provide their names and addresses, the name
23 of the applicable prisoner and any other information the parole earned release
24 review commission determines is necessary. The parole earned release review
25 commission shall provide the cards, without charge, to district attorneys. District

1 attorneys shall provide the cards, without charge, to persons specified in par. (c) 3.
2 These persons may send completed cards to the ~~parole~~ earned release review
3 commission. All commission records or portions of records that relate to mailing
4 addresses of these persons are not subject to inspection or copying under s. 19.35 (1).
5 Before any written statement of a person specified in par. (c) 3. is made a part of the
6 documentary record considered in connection with a ~~parole~~ hearing for parole, or
7 release to extended supervision under this section, the ~~parole~~ earned release review
8 commission shall obliterate from the statement all references to the mailing
9 addresses of the person. A person specified in par. (c) 3. who attends an interview
10 or hearing under par. (eg) may not be required to disclose at the interview or hearing
11 his or her mailing addresses.

12 **SECTION 46.** 304.06 (1) (g) of the statutes is amended to read:

13 304.06 (1) (g) Before a person is released on parole or released to extended
14 supervision under this subsection, the ~~parole~~ earned release review commission
15 shall so notify the municipal police department and the county sheriff for the area
16 where the person will be residing. The notification requirement under this
17 paragraph does not apply if a municipal department or county sheriff submits to the
18 ~~parole~~ earned release review commission a written statement waiving the right to
19 be notified. If applicable, the department shall also comply with s. 304.063.

20 **SECTION 47.** 304.06 (1m) (intro.) of the statutes is amended to read:

21 304.06 (1m) (intro.) The ~~parole~~ earned release review commission may waive
22 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of
23 the following circumstances:

24 **SECTION 48.** 304.06 (1q) (b) of the statutes is amended to read:

1 304.06 (1q) (b) The ~~parole~~ earned release review commission or the department
2 may require as a condition of parole that a serious child sex offender undergo
3 pharmacological treatment using an antiandrogen or the chemical equivalent of an
4 antiandrogen. This paragraph does not prohibit the department from requiring
5 pharmacological treatment using an antiandrogen or the chemical equivalent of an
6 antiandrogen as a condition of probation.

7 **SECTION 49.** 304.06 (1q) (c) of the statutes is amended to read:

8 304.06 (1q) (c) In deciding whether to grant a serious child sex offender release
9 on parole under this subsection, the ~~parole~~ earned release review commission may
10 not consider, as a factor in making its decision, that the offender is a proper subject
11 for pharmacological treatment using an antiandrogen or the chemical equivalent of
12 an antiandrogen or that the offender is willing to participate in pharmacological
13 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

14 **SECTION 50.** 304.06 (1x) of the statutes is amended to read:

15 304.06 (1x) The ~~parole~~ earned release review commission may require as a
16 condition of parole that the person is placed in the intensive sanctions program under
17 s. 301.048. In that case, the person is in the legal custody of the department under
18 that section and is subject to revocation of parole under sub. (3).

19 **SECTION 51.** 304.06 (2m) (d) of the statutes is amended to read:

20 304.06 (2m) (d) The ~~parole~~ earned release review commission or the
21 department shall determine a prisoner's county of residence for the purposes of this
22 subsection by doing all of the following:

23 1. The ~~parole~~ earned release review commission or the department shall
24 consider residence as the voluntary concurrence of physical presence with intent to

1 remain in a place of fixed habitation and shall consider physical presence as prima
2 facie evidence of intent to remain.

3 2. The parole earned release review commission or the department shall apply
4 the criteria for consideration of residence and physical presence under subd. 1. to the
5 facts that existed on the date that the prisoner committed the serious sex offense that
6 resulted in the sentence the prisoner is serving.

7 SECTION 52. 304.071 (1) of the statutes is amended to read:

8 304.071 (1) The parole earned release review commission may at any time
9 grant a parole or release to extended supervision to any prisoner in any penal
10 institution of this state, or the department may at any time suspend the supervision
11 of any person who is on probation ~~or~~, parole, or extended supervision to the
12 department, if the prisoner or person on probation ~~or~~, parole, or extended supervision
13 is eligible for induction into the U.S. armed forces. The suspension of parole,
14 extended supervision, or probation shall be for the duration of his or her service in
15 the armed forces; and the parole, extended supervision, or probation shall again
16 become effective upon his or her discharge from the armed forces in accordance with
17 regulations prescribed by the department. If he or she receives an honorable
18 discharge from the armed forces, the governor may discharge him or her and the
19 discharge has the effect of a pardon. Upon the suspension of parole, extended
20 supervision, or probation by the department, the department shall issue an order
21 setting forth the conditions under which the parole, extended supervision, or
22 probation is suspended, including instructions as to where and when and to whom
23 the ~~paroled~~ person on parole or extended supervision shall report upon discharge
24 from the armed forces.

25 SECTION 53. 809.30 (1) (c) of the statutes is amended to read:

1 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for
2 postconviction relief in a criminal case, other than an appeal, motion, or petition
3 under ss. 302.113 (7m), 302.113 (9g), 973.19, ~~973.195~~, 974.06, or 974.07 (2). In a ch.
4 980 case, the term means an appeal or a motion for postcommitment relief under s.
5 980.038 (4).

6 **SECTION 54.** 911.01 (4) (c) of the statutes is amended to read:

7 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
8 rendition; sentencing, granting or revoking probation, modification of a bifurcated
9 sentence under s. 302.113 (9g), ~~adjustment of a bifurcated sentence under s. 973.195~~
10 ~~(1r) release to extended supervision under s. 302.113 (2) (b) or 304.06 (1) or discharge~~
11 under s. 973.01 (4m) or (4r), issuance of arrest warrants, criminal summonses and
12 search warrants; hearings under s. 980.09 (2); proceedings under s. 971.14 (1) (c);
13 proceedings with respect to pretrial release under ch. 969 except where habeas
14 corpus is utilized with respect to release on bail or as otherwise provided in ch. 969.

15 **SECTION 55.** 950.04 (1v) (f) of the statutes is amended to read:

16 950.04 (1v) (f) To have the parole earned release review commission make a
17 reasonable attempt to notify the victim of applications for parole or release to
18 extended supervision, as provided under s. 304.06 (1).

19 **SECTION 56.** 950.04 (1v) (gm) of the statutes is amended to read:

20 950.04 (1v) (gm) To have reasonable attempts made to notify the victim of
21 petitions for ~~sentence adjustment as provided~~ release to extended supervision under
22 s. ~~973.195 (1r) (d)~~ 302.113 (2) (b) or 304.06 (1) or discharge under s. 973.01 (4m) or
23 (4r).

24 **SECTION 57.** 973.01 (4) of the statutes is amended to read:

1 973.01 (4) ~~NO GOOD TIME; EXTENSION~~ EXTENSION OR REDUCTION OF TERM OF
2 IMPRISONMENT. A person sentenced to a bifurcated sentence under sub. (1) shall serve
3 the term of confinement in prison portion of the sentence without reduction for good
4 behavior. The term of confinement in prison portion is subject to extension under s.
5 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a.,
6 302.113 (9g), or 973.195 (1r) adjustment under s. 302.113 (2) (b) or 304.06 (1).

7 **SECTION 58.** 973.01 (4m) of the statutes is created to read:

8 973.01 (4m) GOOD TIME CREDIT TOWARD DISCHARGE FROM EXTENDED SUPERVISION.
9 Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub.
10 (1) for a Class F to Class I felony that is not a violent offense, as defined in s. 301.048
11 (2) (bm) 1., is eligible to earn good time credit in the amount of one day for every day
12 served without violating a rule or condition of extended supervision. The
13 department shall reduce the length of the person's extended supervision to reflect
14 good time earned by the person under this subsection.

15 **SECTION 59.** 973.01 (4r) of the statutes is created to read:

16 973.01 (4r) PETITION FOR REDUCTION OF EXTENDED SUPERVISION. (a) 1.
17 Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub.
18 (1) for a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2)
19 (bm) 1., may earn good time toward the reduction of extended supervision in the
20 amount of one day for every 3 days that he or she serves without violating a condition
21 of extended supervision. The person may petition to the earned release review
22 commission to have his or her period of extended supervision reduced when he or she
23 has served the extended supervision portion of his or her sentence, less good time he
24 or she has earned.

1 2. Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence
2 under sub. (1) for a Class C to Class E felony may earn good time toward the reduction
3 of extended supervision in the amount of one day for every 5.7 days that he or she
4 serves without violating a condition of extended supervision. The person may
5 petition to the earned release review commission to have his or her period of extended
6 supervision reduced when he or she has served the extended supervision portion of
7 his or her sentence, less good time he or she has earned.

8 (b) The earned release review commission may consider as grounds for a
9 petition under par. (a) to reduce the length of a person's period of extended
10 supervision whether the person has met the conditions of extended supervision and
11 a reduction is in the interests of justice.

12 **SECTION 60.** 973.01 (7) of the statutes is amended to read:

13 973.01 (7) ~~NO-DISCHARGE~~ DISCHARGE. The department of corrections may not
14 shall discharge a person who is serving a bifurcated sentence from custody, control
15 and supervision ~~until~~ when the person has served the entire bifurcated sentence, as
16 modified under sub. (4m) or (4r) and s. 302.113 (2) (b) or 304.06 (1), if applicable.

17 **SECTION 61.** 973.01 (8) (a) 2. of the statutes is amended to read:

18 973.01 (8) (a) 2. The amount of time the person will serve in prison under the
19 term of confinement in prison portion of the sentence, and the date upon which the
20 person is eligible to be released to extended supervision under s. 302.113 (2) (b) or
21 the date upon which the person may apply for release to extended supervision under
22 s. 304.06.

23 **SECTION 62.** 973.01 (8) (a) 3. of the statutes is amended to read:

24 973.01 (8) (a) 3. The amount of time the person will spend on extended
25 supervision, assuming that the person does not commit any act that results in the

1 extension of the term of confinement in prison under s. 302.113 (3), and the date upon
2 which the person may be eligible for discharge under sub. (4m) or apply for a
3 reduction of his or her period of extended supervision under sub. (4r).

4 **SECTION 63.** 973.195 of the statutes is repealed.

5 **SECTION 64.** 974.07 (4) (b) of the statutes is amended to read:

6 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing
7 addresses from completed information cards submitted by victims under ss. 51.37
8 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),
9 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,
10 the parole earned release review commission, and the department of health services
11 shall, upon request, assist clerks of court in obtaining information regarding the
12 mailing address of victims for the purpose of sending copies of motions and notices
13 of hearings under par. (a).

14 **SECTION 65.** 976.03 (23) (c) of the statutes is amended to read:

15 976.03 (23) (c) The application shall be verified by affidavit, shall be executed
16 in duplicate and shall be accompanied by 2 certified copies of the indictment
17 returned, or information and affidavit filed, or of the complaint made to a judge,
18 stating the offense with which the accused is charged, or of the judgment of
19 conviction or of the sentence. The prosecuting officer, parole earned release review
20 commission, warden or sheriff may also attach such further affidavits and other
21 documents in duplicate as he, she or it deems proper to be submitted with the
22 application. One copy of the application, with the action of the governor indicated
23 by endorsement thereon, and one of the certified copies of the indictment, complaint,
24 information and affidavits, or of the judgment of conviction or of the sentence shall

1 be filed in the office of the governor to remain of record in that office. The other copies
2 of all papers shall be forwarded with the governor's requisition.

3 (END)

d-note
↓

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1768/P4ins
PJH:jld/wlj/nwn:md

INSERT 14.24:

SECTION 1. 304.06 (1) (d) 2. of the statutes is amended to read:

304.06 (1) (d) 2. The notice shall be by 1st class mail to an office's or a person's last-known address sent at least 3 weeks before the interview or hearing upon the parole application for parole or release to extended supervision.

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42.

SECTION 2. 304.06 (1) (d) 3m. of the statutes is amended to read:

304.06 (1) (d) 3m. If applicable, the notice shall state the manner in which the person may have direct input in the parole decision-making process for parole or release to extended supervision.

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42.

SECTION 3. 304.06 (1) (d) 4. of the statutes is amended to read:

304.06 (1) (d) 4. If the notice is for a first application for parole or release to extended supervision, the notice shall inform the offices and persons under par. (c) 1. to 3. that notification of subsequent applications for parole or release to extended supervision will be provided only upon request.

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1768/P4dn
PJH:jld/wlj/nwn:md

date

Leah,

Please review this draft to make sure it accomplishes your intent. This is a /P4; the /P3 version needed a few additions before it left our office, so you will not see that version.

This draft includes the rate of positive adjustment time toward release to extended supervision and good time toward discharge from extended supervision for all Class C to Class I felons.

This draft, like the earlier versions, puts sentence adjustment for violent Class F to I felons and all Class C to E felons in s. 304.06. This allows the earned release review commission to adjust sentences for these felons. I think that the draft also needs to specify that persons released to extended supervision under this section remain in the custody of the department and to specify that persons released to extended revocation may be revoked just as persons released to parole are revoked. Do you agree? If so, I will do another draft that amends s. 304.06 (3) and (3m). I am not sure whether the "conditional parole" provisions of s. 304.06 (4) applies to Class C to Class I felons; do you want to treat this subsection in this draft?

Also, under current law the parole commission may require a person released to parole to participate in an intensive sanctions program. This draft does not allow them to do the same for persons released to extended supervision under s. 304.06; do you want to include that in this draft?

Peggy Hurley
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1768/P4dn
PJH:jld/wlj/nwn:jf

January 29, 2009

Leah,

Please review this draft to make sure it accomplishes your intent. This is a /P4; the /P3 version needed a few additions before it left our office, so you will not see that version.

This draft includes the rate of positive adjustment time toward release to extended supervision and good time toward discharge from extended supervision for all Class C to Class I felons.

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Also, under current law the parole commission may require a person released to parole to participate in an intensive sanctions program. This draft does not allow them to do the same for persons released to extended supervision under s. 304.06; do you want to include that in this draft?

Peggy Hurley
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1768/P4
PJH:jld/wlj/nwn:jf

P5
TMR

DOA:.....Wavrunek, BB0520 - Sentence Adjustment for Class C to I felonies

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D-note

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don't gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, a person who is imprisoned for a felony he or she committed prior to December 31, 1999, may petition the Parole Commission in DOC to be released to parole after the person has served 25 percent of his or her sentence. The Parole Commission determines whether, and under what conditions, the person should be released to parole. A person who committed a felony on or after December 31, 1999, is sentenced to a bifurcated sentence, with the first portion of the sentence served in confinement and the second portion served under extended supervision in the community.

A person who is serving a bifurcated sentence is not eligible for parole and, with few exceptions, must serve the entire confinement portion of his or her sentence before being released to extended supervision. A person's confinement portion may be extended if he or she violates a prison regulation. If a person's confinement portion is extended for such a violation, current law requires his or her extended supervision portion to be reduced so that the total length of the person's sentence remains unchanged.

Current law allows a person who is sentenced to a bifurcated sentence for a Class C to Class I felony to petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served

85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement portion of the sentence. If a person's confinement portion is reduced by the sentencing court, current law requires his or her extended supervision portion to be extended so that the total length of the person's sentence remains unchanged.

Under current law, a person who is released to extended supervision must serve his or her entire sentence before extended supervision terminates.

Under this bill, a person who commits a nonviolent Class F to Class I felony, except for certain sex offenders, may earn "positive adjustment time" in the amount of one day for every two days he or she is incarcerated without violating a prison rule or regulation. The bill requires DOC to release the person to extended supervision when he or she serves his entire incarceration period, minus positive adjustment time earned. Under the bill, if a person's incarceration period is reduced by positive adjustment time, his or her period of extended supervision is increased so that the length of the sentence does not change.

Under this bill, a person who commits a violent Class F to Class I felony, except for certain sex offenders, may earn positive adjustment time in the amount of one day for every three days he or she is incarcerated without violating a prison rule or regulation, and a person who commits a Class C to Class E felony, except for certain sex offenders, may earn positive adjustment time in the amount of one day for every 5.7 days he or she is incarcerated without violating a prison rule or regulation.

The bill renames the Parole Commission the Earned Release Review Commission (ERRC) and, in addition to the Parole Commission's current duties, the ERRC may consider a petition for release from a person who commits a violent Class F to Class I felony or a Class C to Class E felony after the person serves his entire incarceration period, minus positive adjustment time earned. The bill eliminates the authority of the trial court to adjust sentences. Under the bill, if the ERRC reduces the term of confinement portion of a person's sentence because the person has earned positive adjustment time, the person's term of extended supervision is increased so that the length of the sentence does not change.

Under the bill, a person who is released to extended supervision for a nonviolent Class F to Class I felony may earn "good time" toward discharge from extended supervision in the amount of one day for every day he or she serves on extended supervision without violating a condition of extended supervision. The bill requires DOC to discharge from extended supervision a person who serves his or her entire extended supervision time, minus good time earned.

Under the bill, a person who is released to extended supervision for a violent Class F to Class I felony may earn good time toward discharge from extended supervise in the amount of one day for every three days he or she serves on extended supervision without violating a condition of extended supervision. A person who is released to extended supervision for a Class C to Class E felony may earn good time toward discharge from extended supervision in the amount of one day for every 5.7 he or she serves on extended supervision without violating a condition of extended supervision. Under the bill, the ERRC may discharge from extended supervision a person convicted of a violent Class F to Class I felony or a person convicted of a Class

and persons who committed a prior violent offense or are determined by DOC to pose a high risk of reoffending

Class F to Class I felony or a nonviolent Class F to Class I felony but was determined by DOC to pose a high risk of reoffending

C to Class E felony after he or she serves his entire period of extended supervision, minus good time earned.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.01 (2) of the statutes is amended to read:

2 15.01 (2) "Commission" means a 3-member governing body in charge of a
3 department or independent agency or of a division or other subunit within a
4 department, except for the Wisconsin waterways commission which shall consist of
5 5 members and the ~~parole~~ earned release review commission which shall consist of
6 8 members. A Wisconsin group created for participation in a continuing interstate
7 body, or the interstate body itself, shall be known as a "commission", but is not a
8 commission for purposes of s. 15.06. The ~~parole~~ earned release review commission
9 created under s. 15.145 (1) shall be known as a "commission", but is not a commission
10 for purposes of s. 15.06.

11 **SECTION 2.** 15.06 (6) of the statutes is amended to read:

12 15.06 (6) QUORUM. A majority of the membership of a commission constitutes
13 a quorum to do business, except that vacancies shall not prevent a commission from
14 doing business. This subsection does not apply to the ~~parole~~ earned release review
15 commission.

16 **SECTION 3.** 15.145 (1) of the statutes is amended to read:

17 15.145 (1) ~~PAROLE~~ EARNED RELEASE REVIEW COMMISSION. There is created in the
18 department of corrections ~~a parole~~ an earned release review commission consisting
19 of 8 members. Members shall have knowledge of or experience in corrections or
20 criminal justice. The members shall include a chairperson who is nominated by the

SECTION 3

1 governor, and with the advice and consent of the senate appointed, for a 2-year term
2 expiring March 1 of the odd-numbered years, subject to removal under s. 17.07 (3m),
3 and the remaining members in the classified service appointed by the chairperson.

4 **SECTION 4.** 17.07 (3m) of the statutes is amended to read:

5 17.07 (3m) Notwithstanding sub. (3), the parole earned release review
6 commission chairperson may be removed by the governor, at pleasure.

7 **SECTION 5.** 20.410 (2) (title) of the statutes is amended to read:

8 20.410 (2) (title) ~~PAROLE~~ EARNED RELEASE REVIEW COMMISSION.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

9 **SECTION 6.** 20.410 (2) (a) of the statutes is amended to read:

10 20.410 (2) (a) *General program operations.* The amounts in the schedule for
11 the general program operations of the parole earned release review commission.

12 **SECTION 7.** 20.923 (4) (b) 6. of the statutes is amended to read:

13 20.923 (4) (b) 6. ~~Parole~~ Earned release review commission: chairperson.

14 **SECTION 8.** 230.08 (2) (pd) of the statutes is amended to read:

15 230.08 (2) (pd) The chairperson of the parole earned release review
16 commission.

17 **SECTION 9.** 301.03 (3) of the statutes is amended to read:

18 301.03 (3) Administer parole, extended supervision and probation matters,
19 except that the decision to grant or deny parole or to grant extended supervision
20 under s. 304.06 (1) to inmates shall be made by the parole earned release review
21 commission and the decision to revoke probation, extended supervision or parole in
22 cases in which there is no waiver of the right to a hearing shall be made by the
23 division of hearings and appeals in the department of administration. The secretary

NO

may

and may
modify a bifurcated
sentence under

1 may grant special action parole releases under s. 304.02. The department may
 2 discharge inmates from extended supervision under s. 973.01 (4m) and the earned
 3 release review commission may discharge inmates from extended supervision under
 4 s. 973.01 (4r). The department shall promulgate rules establishing a drug testing
 5 program for probationers, parolees and persons placed on extended supervision. The
 6 rules shall provide for assessment of fees upon probationers, parolees and persons
 7 placed on extended supervision to partially offset the costs of the program.

CS
NOTE:

*** This is reconciled
 s. 301.03 (3). This section
 has been affected by
 drafts with the following
 LRB numbers
 -1055/113
 and
 -1768/112

8 SECTION 10. 301.048 (2) (am) 3. of the statutes is amended to read:

9 301.048 (2) (am) 3. The parole earned release review commission grants him
 10 or her parole under s. 304.06 and requires his or her participation in the program as
 11 a condition of parole under s. 304.06 (1x).

12 SECTION 11. 301.21 (1m) (c) of the statutes is amended to read:

13 301.21 (1m) (c) Any hearing to consider parole or whether to grant extended
 14 supervision, if the inmate is sentenced under s. 973.01 to which an inmate confined
 15 under this contract may be entitled by the laws of Wisconsin will be conducted by the
 16 Wisconsin parole earned release review commission under rules of the department.

17 SECTION 12. 301.21 (2m) (c) of the statutes is amended to read:

18 301.21 (2m) (c) Any hearing to consider parole or whether to grant extended
 19 supervision, if the prisoner is sentenced under s. 973.01 to which a prisoner confined
 20 under a contract under this subsection may be entitled by the laws of Wisconsin shall
 21 be conducted by the Wisconsin parole earned release review commission under rules
 22 of the department.

23 SECTION 13. 302.045 (3) of the statutes is amended to read:

24 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
 25 determines that an inmate serving a sentence other than one imposed under s.

CS NOTE: 2009 - 2010 Legislature - 6 -

*** This is reconciled s. 302.05(3)(b).
This section has been affected by
drafts with the following LRB numbers: 1418/4 and 1768/4.

CS NOTE: LRB-1768/P4
PJH:jld/wlj/nwn:jf
SECTION 13

This is reconciled s.
302.045(3). This section
has been affected by drafts
with the following LRB
numbers: 1418/4 and
1768/4.

1 973.01 has successfully completed the challenge incarceration program, the parole
2 earned release review commission shall parole the inmate for that sentence under
3 s. 304.06, regardless of the time the inmate has served. When the parole earned
4 release review commission grants parole under this subsection, it must require the
5 parolee to participate in an intensive supervision program for drug abusers as a
6 condition of parole.

7 SECTION 14. 302.05 (3) (b) of the statutes is amended to read:

8 302.05 (3) (b) Except as provided in par. (d), if the department determines that
9 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
10 successfully completed a treatment rehabilitation program described in sub. (1), the parole earned
11 release review commission shall parole the inmate for that sentence under s. 304.06,
12 regardless of the time the inmate has served. If the parole earned release review
13 commission grants parole under this paragraph, it shall require the parolee to
14 participate in an intensive supervision program for drug abusers as a condition of
15 parole.

16 SECTION 15. 302.11 (1g) (b) (intro.) of the statutes is amended to read:

17 302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive
18 mandatory release date reaches the presumptive mandatory release date specified
19 under par. (am), the parole earned release review commission shall proceed under
20 s. 304.06 (1) to consider whether to deny presumptive mandatory release to the
21 inmate. If the parole earned release review commission does not deny presumptive
22 mandatory release, the inmate shall be released on parole. The parole earned release
23 review commission may deny presumptive mandatory release to an inmate only on
24 one or more of the following grounds:

25 SECTION 16. 302.11 (1g) (b) 2. of the statutes is amended to read:

1 302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or
2 treatment that the social service and clinical staff of the institution determines is
3 necessary for the inmate, including pharmacological treatment using an
4 antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious
5 child sex offender as defined in s. 304.06 (1q) (a). The parole earned release review
6 commission may not deny presumptive mandatory release to an inmate because of
7 the inmate's refusal to participate in a rehabilitation program under s. 301.047.

8 **SECTION 17.** 302.11 (1g) (c) of the statutes is amended to read:

9 302.11 (1g) (c) If the parole earned release review commission denies
10 presumptive mandatory release to an inmate under par. (b), the parole earned
11 release review commission shall schedule regular reviews of the inmate's case to
12 consider whether to parole the inmate under s. 304.06 (1).

13 **SECTION 18.** 302.11 (1g) (d) of the statutes is amended to read:

14 302.11 (1g) (d) An inmate may seek review of a decision by the parole earned
15 release review commission relating to the denial of presumptive mandatory release
16 only by the common law writ of certiorari.

17 **SECTION 19.** 302.11 (1m) of the statutes is amended to read:

18 302.11 (1m) An inmate serving a life term is not entitled to mandatory release.
19 Except as provided in ss. 939.62 (2m) (c) and 973.014, the parole earned release
20 review commission may parole the inmate as specified in s. 304.06 (1).

21 **SECTION 20.** 302.11 (7) (c) of the statutes is amended to read:

22 302.11 (7) (c) The parole earned release review commission may subsequently
23 parole, under s. 304.06 (1), and the department may subsequently parole, under s.
24 304.02, a parolee who is returned to prison for violation of a condition of parole.

25 **SECTION 21.** 302.113 (1) of the statutes is amended to read:

CS
NOTE:

SECTION 21

***This is reconciled s. 302.113(1). This section has been affected by drafts with the following LRB numbers: 1055/P3 and 1768/P4.

302.113 (1) An inmate is subject to this section if he or she was convicted of a Class B felony or a Class F to Class I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1. and is serving a bifurcated sentence imposed under s. 973.01. An inmate convicted of a Class C to Class E felony or a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1, may be released to extended supervision only under s. 304.06.

Insert 8.3

insert 8.5

SECTION 22. 302.113 (2) of the statutes is renumbered 302.113 (2) (a) and amended to read:

302.113 (2) (a) Except as provided in par. (b) and subs. (3) and (9), an inmate subject to this section is entitled to release to extended supervision after he or she has served the term of confinement in prison portion of the sentence imposed under s. 973.01, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b)

as modified by the department under sub. (9g) or (9h) or

1., or 302.05 (3) (c) 2. a., or 973.195 (1r), if applicable.

***NOTE: This is reconciled s. 302.113(2)(a). This section has been affected by drafts with the following LRB numbers: 1055/P3 and 1768/P4.

SECTION 23. 302.113 (2) (b) of the statutes is created to read:
302.113 (2) (b) An inmate sentenced under s. 973.01 for a Class F to Class I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1, may earn one day of positive adjustment time for every 2 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. An inmate convicted of a Class F to Class I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1, shall be released to extended supervision when he or she has served the term of confinement in prison portion of his or her bifurcated sentence, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1. or 302.05 (3) (c) 2. a., if applicable, less positive adjustment time he or she has earned. This paragraph does not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

by the sentencing court under

NOTE: CS
***This is reconciled s. 302.113(2)(b). This section has been affected by drafts with the following LRB numbers: 1055/P3 and 1768/P4.

insert 8.2

1 **SECTION 24.** 302.113 (3) (d) of the statutes is amended to read:

2 302.113 (3) (d) If the term of confinement in prison portion of a bifurcated
3 sentence for a Class B felony is increased under this subsection, the term of extended
4 supervision is reduced so that the total length of the bifurcated sentence does not
5 change.

6 **SECTION 25.** 302.113 (3) (e) of the statutes is created to read:

7 302.113 (3) (e) If an inmate is released to extended supervision under sub. (2)
8 (b) after he or she has served less than his or her entire confinement in prison portion
9 of the sentence imposed under s. 973.01, the term of extended supervision is
10 increased so that the total length of the bifurcated sentence does not change.

11 **SECTION 26.** 302.113 (7) of the statutes is amended to read:

12 302.113 (7) Any inmate released to extended supervision under this section is
13 subject to all conditions and rules of extended supervision until the expiration of the
14 term of extended supervision portion of the bifurcated sentence or until the
15 department discharges the inmate under s. 973.01 (4m), whichever is appropriate.
16 The department may set conditions of extended supervision in addition to any
17 conditions of extended supervision required under s. 302.116, if applicable, or set by
18 the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do
19 not conflict with the court's conditions.

20 **SECTION 27.** 302.113 (9) (c) of the statutes is amended to read:

21 302.113 (9) (c) A person who is subsequently released to extended supervision
22 after service of the period of time specified by the [✓]~~court~~ ^{order} under par. (am) is subject to
23 all conditions and rules under subs. (7) and, if applicable, (7m) until the expiration
24 of the remaining extended supervision portion of the bifurcated sentence or until the
25 department discharges the person under s. 973.01 (4m), whichever is appropriate.

1 The remaining extended supervision portion of the bifurcated sentence is the total
2 length of the bifurcated sentence, less the time served by the person in confinement
3 under the bifurcated sentence before release to extended supervision under sub. (2)
4 and less all time served in confinement for previous revocations of extended
5 supervision under the bifurcated sentence.

6 **SECTION 28.** 302.114 (9) (c) of the statutes is amended to read:

7 302.114 (9) (c) A person who is subsequently released to extended supervision
8 under par. (bm) is subject to all conditions and rules under sub. (8) until the
9 expiration of the sentence or until the department discharges the person under s.
10 973.01 (4m), whichever is appropriate.

11 **SECTION 29.** 304.01 (title) of the statutes is amended to read:

12 **304.01** (title) **Parole Earned release review commission and**
13 **commission chairperson; general duties.**

14 **SECTION 30.** 304.01 (1) of the statutes is amended to read:

15 304.01 (1) The chairperson of the parole earned release review commission
16 shall administer and supervise the commission and its activities and shall be the
17 final ~~parole granting~~ authority for granting parole or release to extended
18 supervision, except as provided in s. 304.02.

19 **SECTION 31.** 304.01 (2) (intro.) of the statutes is amended to read:

20 304.01 (2) (intro.) The parole earned release review commission shall conduct
21 regularly scheduled interviews to consider the parole or release to extended
22 supervision of eligible inmates of the adult correctional institutions under the
23 control of the department of corrections, eligible inmates transferred under ch. 51
24 and under the control of the department of health services and eligible inmates in

NOTE:
→ This is recorded s. 302.113(9)(c). This section has been affected by drafts with the following LRB numbers: -1008 and -1768

1 any county house of correction. The department of corrections shall provide all of the
2 following to the parole earned release review commission:

3 **SECTION 32.** 304.01 (2) (b) of the statutes is amended to read:

4 304.01 (2) (b) Scheduling assistance for parole interviews for prisoners who
5 have applied for parole or release to extended supervision at the correctional
6 institutions.

7 **SECTION 33.** 304.01 (2) (c) of the statutes is amended to read:

8 304.01 (2) (c) Clerical support related to the parole interviews for prisoners who
9 have applied for parole or release to extended supervision.

10 **SECTION 34.** 304.01 (2) (d) of the statutes is amended to read:

11 304.01 (2) (d) Appropriate physical space at the correctional institutions to
12 conduct the parole interviews for prisoners who have applied for parole or release to
13 extended supervision.

14 **SECTION 35.** 304.06 (title) of the statutes is amended to read:

15 **304.06 (title) Paroles Release to parole or extended supervision from**
16 **state prisons and house of correction.**

17 **SECTION 36.** 304.06 (1) (b) of the statutes is amended to read:

18 304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s.
19 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole earned release review
20 commission may parole an inmate of the Wisconsin state prisons or any felon or any
21 person serving at least one year or more in a county house of correction or a county
22 reforestation camp organized under s. 303.07, when he or she has served 25% of the
23 sentence imposed for the offense, or 6 months, whichever is greater. Except as
24 provided in s. 939.62 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the parole earned
25 release review commission may parole an inmate serving a life term when he or she

1 has served 20 years, as modified by the formula under s. 302.11 (1) and subject to
2 extension under s. 302.11 (1q) and (2), if applicable. The person serving the life term
3 shall be given credit for time served prior to sentencing under s. 973.155, including
4 good time under s. 973.155 (4). The secretary may grant special action parole
5 releases under s. 304.02. The department or the parole earned release review
6 commission shall not provide any convicted offender or other person sentenced to the
7 department's custody any parole eligibility or evaluation for parole or release to
8 extended supervision until the person has been confined at least 60 days following
9 sentencing.

10 **SECTION 37.** 304.06 (1) (bg) of the statutes is created to read:

11 304.06 (1) (bg) 1. A person sentenced under s. 973.01 for a Class F to Class I
12 felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1. ^{Insert 12.11} may earn one day
13 of positive adjustment time for every 3 days served that he or she does not violate any
14 regulation of the prison or does not refuse or neglect to perform required or assigned
15 duties. An inmate convicted of a Class F to Class I felony that is a violent offense,
16 as defined in s. 301.048 (2) (bm) 1. may petition the earned release review
17 commission for release to extended supervision when he or she has served the term
18 of confinement in prison portion of his or her bifurcated sentence, as modified by the
19 sentencing court under s. 302.045 (3m) (b) 1. ^{or} 302.05 (3) (c) 2. a. ^{or} 302.113 (9g), if
20 applicable, less positive adjustment time he or she has earned. This subdivision does
21 not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

22 2. A person sentenced under s. 973.01 for a Class C to Class E felony may earn
23 one day of positive adjustment time for every 5.7 days served that he or she does not
24 violate any regulation of the prison or does not refuse or neglect to perform required
25 or assigned duties. An inmate convicted of a Class C to Class E felony that is a violent

The person
by the department under s.

by the department under s.
1 offense, as defined in s. 301.048 (2) (bm) 1, may petition the earned release review
2 commission for release to extended supervision when he or she has served the term
3 of confinement in prison portion of his or her bifurcated sentence, as modified by the
4 sentencing court under s. 302.045 (3m) (b) 1. ^{or} 302.05 (3) (c) 2. ^{or} 302.113 (9g), if
5 applicable, less positive adjustment time he or she has earned. This subdivision does
6 not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

7 SECTION 38. 304.06 (1) (bn) of the statutes is created to read:

8 304.06 (1) (bn) The earned release review commission may consider any of the
9 following as a ground for a petition under par. (bg) [✓] for release to extended supervision
10 by a person who is sentenced under s. 973.01 for a Class C to Class E felony or for
11 a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm)
12 1.:

13 1. The inmate's conduct, efforts at and progress in rehabilitation, or
14 participation and progress in education, treatment, or other correctional programs
15 since he or she was sentenced.

16 2. The inmate is subject to a sentence of confinement in another state or the
17 inmate is in the United States illegally and may be deported.

18 3. Sentence adjustment is otherwise in the interests of justice.

19 SECTION 39. 304.06 (1) (br) of the statutes is created to read:

20 304.06 (1) (br) The earned release review commission may reduce the term of
21 confinement of a person ^{STET} who is sentenced under s. 973.01 for a Class C to Class E
22 felony or for a Class F to Class I felony that is a violent offense, as defined in s.
23 301.048 (2) (bm) 1., only as follows: petitions under par. (bg) [✓] letters

24 1. If the inmate is serving the term of confinement in prison portion of the
25 sentence, a reduction in the term of confinement in prison by the amount of time

1 remaining in the term of confinement in prison portion of the sentence, less up to 30
2 days, and a corresponding increase in the term of extended supervision.

3 2. If the inmate is confined in prison upon revocation of extended supervision,
4 a reduction in the amount of time remaining in the period of confinement in prison
5 imposed upon revocation, less up to 30 days, and a corresponding increase in the term
6 of extended supervision.

7 **SECTION 40.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

8 304.06 (1) (c) (intro.) If an inmate applies for parole or release to extended
9 supervision under this subsection, the parole earned release review commission
10 shall make a reasonable attempt to notify the following, if they can be found, in
11 accordance with par. (d):

12 **SECTION 41.** 304.06 (1) (d) 1. of the statutes is amended to read:

13 304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons
14 under par. (c) 1. to 3. of the manner in which they may provide written statements
15 under this subsection, shall inform persons under par. (c) 3. of the manner in which
16 they may attend interviews or hearings and make statements under par. (eg) and
17 shall inform persons under par. (c) 3. who are victims, or family members of victims,
18 of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~, (2), or (3), 948.02 (1)
19 or (2), 948.025, 948.06 or 948.07 of the manner in which they may have direct input
20 in the parole decision-making process under par. (em) for parole or release to
21 extended supervision. The parole earned release review commission shall provide
22 notice under this paragraph for an inmate's first application for parole or release to
23 extended supervision and, upon request, for subsequent applications for parole or
24 release to extended supervision.

25 **SECTION 42.** 304.06 (1) (d) 2. of the statutes is amended to read:

1 304.06 (1) (d) 2. The notice shall be by 1st class mail to an office's or a person's
2 last-known address sent at least 3 weeks before the interview or hearing upon the
3 parole application for parole or release to extended supervision.

4 **SECTION 43.** 304.06 (1) (d) 3m. of the statutes is amended to read:

5 304.06 (1) (d) 3m. If applicable, the notice shall state the manner in which the
6 person may have direct input in the parole decision-making process for parole or
7 release to extended supervision.

8 **SECTION 44.** 304.06 (1) (d) 4. of the statutes is amended to read:

9 304.06 (1) (d) 4. If the notice is for a first application for parole or release to
10 extended supervision, the notice shall inform the offices and persons under par. (c)
11 1. to 3. that notification of subsequent applications for parole or release to extended
12 supervision will be provided only upon request.

13 **SECTION 45.** 304.06 (1) (e) of the statutes is amended to read:

14 304.06 (1) (e) The parole earned release review commission shall permit any
15 office or person under par. (c) 1. to 3. to provide written statements. The parole
16 earned release review commission shall give consideration to any written statements
17 provided by any such office or person and received on or before the date specified in
18 the notice. This paragraph does not limit the authority of the parole earned release
19 review commission to consider other statements or information that it receives in a
20 timely fashion.

21 **SECTION 46.** 304.06 (1) (eg) of the statutes is amended to read:

22 304.06 (1) (eg) The parole earned release review commission shall permit any
23 person under par. (c) 3. to attend any interview or hearing on the parole application
24 for parole or release to extended supervision of an applicable inmate and to make a
25 statement at that interview or hearing.

1 **SECTION 47.** 304.06 (1) (em) of the statutes is amended to read:

2 304.06 (1) (em) The parole earned release review commission shall promulgate
3 rules that provide a procedure to allow any person who is a victim, or a family
4 member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1) or,
5 (2), or (3), 948.02 (1) or (2), 948.025, 948.06 or 948.07 to have direct input in the parole
6 decision-making process for parole or release to extended supervision.

7 **SECTION 48.** 304.06 (1) (f) of the statutes is amended to read:

8 304.06 (1) (f) The parole earned release review commission shall design and
9 prepare cards for persons specified in par. (c) 3. to send to the commission. The cards
10 shall have space for these persons to provide their names and addresses, the name
11 of the applicable prisoner and any other information the parole earned release
12 review commission determines is necessary. The parole earned release review
13 commission shall provide the cards, without charge, to district attorneys. District
14 attorneys shall provide the cards, without charge, to persons specified in par. (c) 3.
15 These persons may send completed cards to the parole earned release review
16 commission. All commission records or portions of records that relate to mailing
17 addresses of these persons are not subject to inspection or copying under s. 19.35 (1).
18 Before any written statement of a person specified in par. (c) 3. is made a part of the
19 documentary record considered in connection with a parole hearing for parole, or
20 release to extended supervision under this section, the parole earned release review
21 commission shall obliterate from the statement all references to the mailing
22 addresses of the person. A person specified in par. (c) 3. who attends an interview
23 or hearing under par. (eg) may not be required to disclose at the interview or hearing
24 his or her mailing addresses.

25 **SECTION 49.** 304.06 (1) (g) of the statutes is amended to read:

1 304.06 (1) (g) Before a person is released on parole or released to extended
2 supervision under this subsection, the parole earned release review commission
3 shall so notify the municipal police department and the county sheriff for the area
4 where the person will be residing. The notification requirement under this
5 paragraph does not apply if a municipal department or county sheriff submits to the
6 parole earned release review commission a written statement waiving the right to
7 be notified. If applicable, the department shall also comply with s. 304.063.

8 **SECTION 50.** 304.06 (1m) (intro.) of the statutes is amended to read:

9 304.06 (1m) (intro.) The parole earned release review commission may waive
10 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of
11 the following circumstances:

12 **SECTION 51.** 304.06 (1q) (b) of the statutes is amended to read:

13 304.06 (1q) (b) The parole earned release review commission or the department
14 may require as a condition of parole that a serious child sex offender undergo
15 pharmacological treatment using an antiandrogen or the chemical equivalent of an
16 antiandrogen. This paragraph does not prohibit the department from requiring
17 pharmacological treatment using an antiandrogen or the chemical equivalent of an
18 antiandrogen as a condition of probation.

19 **SECTION 52.** 304.06 (1q) (c) of the statutes is amended to read:

20 304.06 (1q) (c) In deciding whether to grant a serious child sex offender release
21 on parole under this subsection, the parole earned release review commission may
22 not consider, as a factor in making its decision, that the offender is a proper subject
23 for pharmacological treatment using an antiandrogen or the chemical equivalent of
24 an antiandrogen or that the offender is willing to participate in pharmacological
25 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

1 **SECTION 53.** 304.06 (1x) of the statutes is amended to read:

2 304.06 (1x) The parole earned release review commission may require as a
3 condition of parole that the person is placed in the intensive sanctions program under
4 s. 301.048. In that case, the person is in the legal custody of the department under
5 that section and is subject to revocation of parole under sub. (3).

6 **SECTION 54.** 304.06 (2m) (d) of the statutes is amended to read:

7 304.06 (2m) (d) The parole earned release review commission or the
8 department shall determine a prisoner's county of residence for the purposes of this
9 subsection by doing all of the following:

10 1. The parole earned release review commission or the department shall
11 consider residence as the voluntary concurrence of physical presence with intent to
12 remain in a place of fixed habitation and shall consider physical presence as prima
13 facie evidence of intent to remain.

14 2. The parole earned release review commission or the department shall apply
15 the criteria for consideration of residence and physical presence under subd. 1. to the
16 facts that existed on the date that the prisoner committed the serious sex offense that
17 resulted in the sentence the prisoner is serving.

18 **SECTION 55.** 304.071 (1) of the statutes is amended to read:

19 304.071 (1) The parole earned release review commission may at any time
20 grant a parole or release to extended supervision to any prisoner in any penal
21 institution of this state, or the department may at any time suspend the supervision
22 of any person who is on probation ~~or~~, parole, or extended supervision to the
23 department, if the prisoner or person on probation ~~or~~, parole, or extended supervision
24 is eligible for induction into the U.S. armed forces. The suspension of parole,
25 extended supervision, or probation shall be for the duration of his or her service in

the armed forces; and the parole, extended supervision, or probation shall again become effective upon his or her discharge from the armed forces in accordance with regulations prescribed by the department. If he or she receives an honorable discharge from the armed forces, the governor may discharge him or her and the discharge has the effect of a pardon. Upon the suspension of parole, extended supervision, or probation by the department, the department shall issue an order setting forth the conditions under which the parole, extended supervision, or probation is suspended, including instructions as to where and when and to whom the paroled person on parole or extended supervision shall report upon discharge from the armed forces.

SECTION 56. 809.30 (1) (c) of the statutes is amended to read:

809.30 (1) (c) "Postconviction relief" means an appeal or a motion for postconviction relief in a criminal case, other than an appeal, motion, or petition under ss. 302.113 (7m), 302.113 (9g), 973.19, ~~973.195~~, 974.06, or 974.07 (2). In a ch. 980 case, the term means an appeal or a motion for postcommitment relief under s. 980.038 (4).

SECTION 57. 911.01 (4) (c) of the statutes is amended to read:

911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or rendition; sentencing, granting or revoking probation, ~~modification of~~ a bifurcated sentence under s. 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195 (1r) [✓] release to extended supervision under s. 302.113 (2) (b) or 304.06 (1) or discharge under s. 973.01 (4m) or (4r), issuance of arrest warrants, criminal summonses and search warrants; hearings under s. 980.09 (2); proceedings under s. 971.14 (1) (c); proceedings with respect to pretrial release under ch. 969 except where habeas corpus is utilized with respect to release on bail or as otherwise provided in ch. 969.

CS
NOTE:

→ XXXX This is reconciled s. 911.01 (4) (c). This section has been affected by drafts with the following LRB numbers: 1055/P3 and 1768/P4.

of the department's decision under s. 302.113 (9g) (h) of the department's decision under s. 302.113 (9g) (e) whether to modify

Scored
an appeal

1 **SECTION 58.** 950.04 (1v) (f) of the statutes is amended to read:

2 950.04 (1v) (f) To have the parole earned release review commission make a
3 reasonable attempt to notify the victim of applications for parole or release to
4 extended supervision, as provided under s. 304.06 (1).

5 **SECTION 59.** 950.04 (1v) (gm) of the statutes is amended to read:

6 950.04 (1v) (gm) To have reasonable attempts made to notify the victim of
7 petitions for ~~sentence adjustment as provided~~ release to extended supervision under
8 s. ~~973.195 (1r) (d)~~ 302.113 (2) (b) or 304.06 (1) or discharge under s. 973.01 (4m) or
9 (4r).

10 **SECTION 60.** 973.01 (4) of the statutes is amended to read:

11 973.01 (4) ~~NO GOOD TIME; EXTENSION~~ EXTENSION OR REDUCTION OF TERM OF
12 IMPRISONMENT. A person sentenced to a bifurcated sentence under sub. (1) shall serve
13 the term of confinement in prison portion of the sentence without reduction for good
14 behavior. The term of confinement in prison portion is subject to extension under s.

15 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a., or
16 302.113 (9g), or ~~973.195 (1r)~~ adjustment under s. 302.113 (2) (b) or 304.06 (1).

17 **SECTION 61.** 973.01 (4m) of the statutes is created to read:

18 973.01 (4m) GOOD TIME CREDIT TOWARD DISCHARGE FROM EXTENDED SUPERVISION.

19 Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub.

20 (1) for a Class F to Class I felony that is not a violent offense, as defined in s. 301.048

21 (2) (bm) 1., is eligible to earn good time credit in the amount of one day for every day
22 served without violating a rule or condition of extended supervision. The

23 department shall reduce the length of the person's extended supervision to reflect

24 good time earned by the person under this subsection.

25 **SECTION 62.** 973.01 (4r) of the statutes is created to read:

Insert
20.24

or
a misdemeanor

Insert
20.24

21.3 Insert
1 973.01 (4r) PETITION FOR REDUCTION OF EXTENDED SUPERVISION. (a) 1.
2 Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub.
3 (1) for a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2)
4 (bm) 1., may earn good time toward the reduction of extended supervision in the
5 amount of one day for every 3 days that he or she serves without violating a condition
6 of extended supervision. The person may petition to the earned release review
7 commission to have his or her period of extended supervision reduced when he or she
8 has served the extended supervision portion of his or her sentence, less good time he
9 or she has earned. Insert 21.9

10 2. Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence
11 under sub. (1) for a Class C to Class E felony may earn good time toward the reduction
12 of extended supervision in the amount of one day for every 5.7 days that he or she
13 serves without violating a condition of extended supervision. The person may
14 petition to the earned release review commission to have his or her period of extended
15 supervision reduced when he or she has served the extended supervision portion of
16 his or her sentence, less good time he or she has earned. Insert 21.16

17 (b) The earned release review commission may consider as grounds for a
18 petition under par. (a) to reduce the length of a person's period of extended
19 supervision whether the person has met the conditions of extended supervision and
20 a reduction is in the interests of justice.

21 SECTION 63. 973.01 (7) of the statutes is amended to read:

22 973.01 (7) ~~NO DISCHARGE~~ DISCHARGE. The department of corrections may not
23 shall discharge a person who is serving a bifurcated sentence from custody, control
24 and supervision ~~until~~ when the person has served the entire bifurcated sentence, as
25 modified under sub. (4m) or (4r) and s. 302.113 (2) (b) or 304.06 (1), if applicable.

✓ (9g) or (9h)

1 **SECTION 64.** 973.01 (8) (a) 2. of the statutes is amended to read:

2 973.01 (8) (a) 2. The amount of time the person will serve in prison under the
3 term of confinement in prison portion of the sentence, and the date upon which the
4 person is eligible to be released to extended supervision under s. 302.113 (2) (b) or
5 the date upon which the person may apply for release to extended supervision under
6 s. 304.06.

7 **SECTION 65.** 973.01 (8) (a) 3. of the statutes is amended to read:

8 973.01 (8) (a) 3. The amount of time the person will spend on extended
9 supervision, assuming that the person does not commit any act that results in the
10 extension of the term of confinement in prison under s. 302.113 (3), and the date upon
11 which the person may be eligible for discharge under sub. (4m) or apply for a
12 reduction of his or her period of extended supervision under sub. (4r).

13 **SECTION 66.** 973.195 of the statutes is repealed.

14 **SECTION 67.** 974.07 (4) (b) of the statutes is amended to read:

15 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing
16 addresses from completed information cards submitted by victims under ss. 51.37
17 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),
18 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,
19 the parole earned release review commission, and the department of health services
20 shall, upon request, assist clerks of court in obtaining information regarding the
21 mailing address of victims for the purpose of sending copies of motions and notices
22 of hearings under par. (a).

23 **SECTION 68.** 976.03 (23) (c) of the statutes is amended to read:

24 976.03 (23) (c) The application shall be verified by affidavit, shall be executed
25 in duplicate and shall be accompanied by 2 certified copies of the indictment

1 returned, or information and affidavit filed, or of the complaint made to a judge,
2 stating the offense with which the accused is charged, or of the judgment of
3 conviction or of the sentence. The prosecuting officer, ~~parole~~ earned release review
4 commission, warden or sheriff may also attach such further affidavits and other
5 documents in duplicate as he, she or it deems proper to be submitted with the
6 application. One copy of the application, with the action of the governor indicated
7 by endorsement thereon, and one of the certified copies of the indictment, complaint,
8 information and affidavits, or of the judgment of conviction or of the sentence shall
9 be filed in the office of the governor to remain of record in that office. The other copies
10 of all papers shall be forwarded with the governor's requisition.

11

(END)

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3
INSERT 8.4:

NO # An inmate convicted of a Class F to Class I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1., and who is eligible for positive adjustment time under sub. (2) (b) pursuant to s. 973.01 (3d) (b) may be released to extended supervision under sub. (2) (b), (9g), or (9h).

INSERT 8.5:

NO # or a Class F to Class I felony that is not a violent offense, as defined under s. 301.048 (2) (bm) 1. but who is ineligible for positive adjustment time under sub. (2) (b) pursuant to s. 973.01 (3d) (b) NO #

INSERT 8.25:

NO # , a violent offender, as defined in s. 16.964 (12) (a), or who is ineligible for positive adjustment time under this paragraph pursuant to s. 973.01 (3d) (b) NO #

INSERT 12.11:

NO # a felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1., and who is ineligible for positive adjustment time under s. 302.113 (2) (b) pursuant to s. 973.01 (3d) (b) or for

INSERT 18.17:

SECTION 1. 304.06 (3) of the statutes is amended to read:

304.06 (3) Every paroled prisoner paroled or released to extended supervision remains in the legal custody of the department unless otherwise provided by the department. If the department alleges that any condition or rule of parole or extended supervision has been violated by the prisoner, the department may take physical custody of the prisoner for the investigation of the alleged violation. If the

INS 18.17 cont
- 2 -

department is satisfied that any condition or rule of parole or extended supervision has been violated it shall afford the prisoner such administrative hearings as are required by law. Unless waived by the parolee or person on extended supervision, the final administrative hearing shall be held before a hearing examiner from the division of hearings and appeals in the department of administration who is licensed to practice law in this state. The hearing examiner shall enter an order revoking or not revoking parole or extended supervision. Upon request by either party, the administrator of the division of hearings and appeals shall review the order. The hearing examiner may order that a deposition be taken by audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to (10). If the parolee or person on extended supervision waives the final administrative hearing, the secretary of corrections shall enter an order revoking or not revoking parole or extended supervision. If the examiner, the administrator upon review, or the secretary in the case of a waiver finds that the prisoner has violated the rules or conditions of parole or extended supervision, the examiner, the administrator upon review, or the secretary in the case of a waiver, may order the prisoner returned to prison to continue serving his or her sentence, or to continue on parole or extended supervision. If the prisoner claims or appears to be indigent, the department shall refer the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 286; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42.

SECTION 2. 304.06 (3e) of the statutes is amended to read:

304.06 (3e) The division of hearings and appeals in the department of administration shall make either an electronic or stenographic record of all testimony at each parole or extended supervision revocation hearing. The division



INS 18.17 cont

shall prepare a written transcript of the testimony only at the request of a judge who has granted a petition for judicial review of the revocation decision. Each hearing notice shall include notice of the provisions of this subsection and a statement that any person who wants a written transcript may record the hearing at his or her own expense.

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42.

SECTION 3. 304.06 (3m) of the statutes is amended to read:

304.06 (3m) If the convicting court is informed by the department that a prisoner on parole or extended supervision has absconded and that the prisoner's whereabouts are unknown, the court may issue a *capias* for execution by the sheriff.

(end ins 18.17)

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326; 1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42.

INSERT 20.9:

SECTION 4. 973.01 (3d) of the statutes is created to read:

973.01 (3d) **POSITIVE ADJUSTMENT TIME ELIGIBILITY.** (a) When a person is sentenced under sub. (1) to a term of confinement in prison, the department of corrections shall, applying an objective instrument supported by research, determine how likely it is that the person will commit another offense.

(b) If the department of corrections determines that the person poses a high risk of reoffending, the person shall be ineligible to earn positive adjustment time under s. 302.113 (2) (b).

under par. (a)

INSERT 20.24:

~~NO~~ This subsection does not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m) or who is a violent offender, as defined in s. 16.964 (12) (a).

INSERT 21.3:

check A



INS 21.3

~~NO~~ for a felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1, and who is ineligible for positive adjustment time under s. 302.113 (2) (b) pursuant to 973.01 (3d) (b) or ~~NO~~

INSERT 21.9:

~~NO~~ This subdivision does not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

INSERT 21.16:

~~NO~~ This subdivision does not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

INSERT 23.10:

SECTION 9311. Initial applicability; Corrections

(1) SENTENCE ADJUSTMENT. The treatment of sections 301.03 (3), 301.048 (2) (am) 3., 301.21 (1m) (c), 301.21 (2m) (c), 302.045 (3), 302.05 (3) (b), 302.11 (1g) (b) (intro.), 302.11 (1g) (b) 2., 302.11 (1g) (c), 302.11 (1g) (d), 302.11 (1m), 302.11 (7) (c), 302.113 (1), 302.113 (2), 302.113 (3) (d), 302.113 (7), 302.113 (9) (c), 302.114 (9) (c), 304.01 (title), 304.01 (1), 304.01 (2) (intro.), 304.01 (2) (b), 304.01 (2) (c), 304.01 (2) (d), 304.06 (title), 304.06 (1) (b), 304.06 (1) (c) (intro.), 304.06 (1) (d) 1., 304.06 (1) (d) 2., 304.06 (1) (d) 3m., 304.06 (1) (d) 4., 304.06 (1) (e), 304.06 (1) (eg), 304.06 (1) (em), 304.06 (1) (f), 304.06 (1) (g), 304.06 (1m) (intro.), 304.06 (1q) (b), 304.06 (1q) (c), 304.06 (1x), 304.06 (2m) (d), 304.071 (1), 809.30 (1) (c), 911.01 (4) (c), 950.04 (1v) (f), 950.04 (1v) (gm), 973.01 (4), 973.01 (7), 973.01 (8) (a) 2., 973.01 (8) (a) 3., 974.07 (4) (b) and 976.03 (23) (c) of the statutes; and the creation of sections 302.113 (2) (b), 302.113 (3) (e), 304.06 (1) (bg), 304.06 (1) (bn), 304.06 (1) (br), 973.01 (3d), 973.01 (4m) and 973.01 (4r) of the statutes of the statutes first applies to a person sentenced on December 31, 1999.

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SENTENCE
ADJUSTMENT.

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LRB-1768/P5
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INSERT JLD (to Ins 23.10)

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AN ACT to repeal 973.195; ~~to renumber and amend~~ ^{the renumbering and amendment of} 302.113 (2) ^{of the statutes} to ^{the} amend ^{ment of} 15.01 (2), 15.06 (6), 15.145 (1), 17.07 (3m), 20.410 (2) (title), 20.410 (2) (a), 20.923 (4) (b) 6., 230.08 (2) (pd), 301.03 (3), 301.048 (2) (am) 3., 301.21 (1m) (c), 301.21 (2m) (c), 302.045 (3), 302.05 (3) (b), 302.11 (1g) (b) (intro.), 302.11 (1g) (b) 2., 302.11 (1g) (c), 302.11 (1g) (d), 302.11 (1m), 302.11 (7) (c), 302.113 (1), 302.113 (3) (d), 302.113 (7), 302.113 (9) (c), 302.114 (9) (c), 304.01 (title), 304.01 (1), 304.01 (2) (intro.), 304.01 (2) (b), 304.01 (2) (c), 304.01 (2) (d), 304.06 (title), 304.06 (1) (b), 304.06 (1) (c) (intro.), 304.06 (1) (d) 1., 304.06 (1) (d) 2., 304.06 (1) (d) 3m., 304.06 (1) (d) 4., 304.06 (1) (e), 304.06 (1) (eg), 304.06 (1) (em), 304.06 (1) (f), 304.06 (1) (g), 304.06 (1m) (intro.), 304.06 (1q) (b), 304.06 (1q) (c), 304.06 (1x), 304.06 (2m) (d), 304.071 (1), 809.30 (1) (c), 911.01 (4) (c), 950.04 (1v) (f), 950.04 (1v) (gm), 973.01 (4), 973.01 (7), 973.01 (8) (a) 2., 973.01 (8) (a) 3., 974.07 (4) (b) and 976.03 (23) (c) ^{of the statutes,} and ^{the creation of sections} ~~to create~~ 302.113 (2) (b), 302.113 (3) (e), 304.06 (1) (bg), 304.06 (1) (bn), 304.06 (1) (br), 973.01 (4m) and 973.01 (4r) of the statutes first apply to a person sentenced on December 31, 1999.


(end Ins JLD to Ins 23.10)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1768/P5dn
PJH:jld/wlj/nwn:jf

date

Leah:

 In addition to the other changes we discussed, this draft reconciles LRB-1418, LRB-1008, and LRB-1768. All of these drafts should continue to appear in the compiled bill.

Handwritten notes:
- LRB-1055/P3 (with arrow pointing to LRB-1008)
- 104 (with arrow pointing to LRB-1418)
- 104 (with arrow pointing to LRB-1768)

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1768/P5dn
PJH:jld/wlj/nwn:ph

January 30, 2009

Leah:

In addition to the other changes we discussed, this draft reconciles LRB-1418/P4, LRB-1008/1, 1055/P3, and LRB-1768/P4. All of these drafts should continue to appear in the compiled bill.

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